

A Statement from the Butte Site Consent Decree Parties to the Community of Butte

The consent decree parties (CD Parties) are responding to concerns expressed by several community members regarding our April 11, 2019 letter to the Restore Our Creek Coalition (ROCC). Our letter to ROCC was intended to explain what the CD Parties can and are willing to do to support ROCC’s vision for the Silver Bow Creek corridor running from Texas Avenue to the confluence with Blacktail Creek in Butte, as described in the Silver Bow Creek Headwaters Park Vision document dated November 2016 (ROCC Vision Document) (the “Project”).

We want to take this opportunity to do so again, in a comprehensive fashion and addressed to the community of Butte.

CD Parties’ End Land Use Proposals

The CD Parties’ end land use proposals, offered to the community over the last several months, include:

- **State of Montana.** A proposed commitment would set aside a portion of the future Butte consent decree settlement funds that would otherwise be available for restoration in an interest-bearing account that could be used, along with money from other sources, to conduct the design work and to construct a lined creek in the corridor. The creek bed must be lined to avoid impacts to the remedial systems in this area, such as the groundwater interception system, and to separate the creek from connection to or interaction with groundwater so that the creek water remains uncontaminated. If the State’s funding is secured through a final Butte consent decree, this important commitment by the State could provide partial funding to further the ROCC vision of a lined creek for this area in the future, after remedy is implemented and the issues identified below have been addressed.
- **The Atlantic Richfield Company.** A proposed commitment would fund and create amenities – such as native plantings with trees, park benches, wayfinding and educational opportunities, and other landscape features – in the Diggings East, Northside Tailings, Buffalo Gulch, and Butte Reduction Works areas on property it owns or controls in connection with the implementation of the remedial elements in these areas. Recirculating water features within the larger basins are also proposed, and would be constructed if consistent with the approved remedial design. Atlantic Richfield is also willing to continue discussions with the community and the State regarding construction of a fishing pond at Northside Tailings. These features have been presented to the community in prior public meetings and we believe have been generally well received.
- **Montana Department of Environmental Quality.** A proposed commitment would construct fishing amenities in the restored Blacktail Creek area.
- **Butte Silver Bow County.** A commitment for appropriate end land use development, and Atlantic Richfield Company’s and Butte Silver Bow County’s proposed designation of areas within the Silver Bow Creek corridor, on property that each controls, where a lined creek could be located.

These proposals support the CD Parties’ belief that many of the concepts presented in the November 2016 ROCC Vision Document, including a lined creek, can be accommodated in areas adjacent to the remedial elements, if EPA’s Proposed Plan to modify the Butte Priority Soils Operable Unit (BPSOU) remedy is finalized and the Consent Decree is entered into.

Response to ROCC Request

In specific response to ROCC’s request for a design and engineering feasibility study for a lined creek through the Silver Bow Creek corridor area, the CD Parties believe that additional study is not currently appropriate for two primary reasons:

- Stakeholders, including ROCC or any other project proponent, working with other representatives of the community, must address issues related to land use, water supply, zoning, access, and infrastructure before the exact nature of the project can be developed and subjected to a full conceptual design. Resolution of these issues is necessary for development of a full conceptual design and engineering feasibility study for this or any project of this magnitude.
- Although portions of the corridor are owned by Atlantic Richfield Company or public entities (e.g., land associated with the Parrot removal is owned by Butte-Silver Bow County), some lands in the area are under private, third party ownership. It would not be appropriate to create and distribute a design and engineering feasibility study for the Project’s lined creek without the consent of all potentially impacted landowners.

The recognition of these issues by the CD Parties does not signal opposition to the ROCC vision or diminish our desire to continue to coordinate with ROCC and other community groups and members. The CD Parties are committed to continuing to coordinate with ROCC and other community groups on appropriate end land use development for this area that is consistent with the proposed modified remedy and its important water quality objectives.

Conclusion

The CD Parties believe that the proposed actions and commitments described above, which are outside of EPA’s statutory authority to require, are genuine, good faith efforts to work constructively with ROCC and other community groups and members at achieving a vibrant and robust end land use development of the Silver Bow Creek area from Texas Avenue to the

confluence with Blacktail Creek that will serve the Butte community well.

EPA’s proposed BPSOU remedy and the State of Montana’s Parrot Tailings Waste Removal Project can set the stage for ROCC’s vision for this area and other areas in Butte. The work will improve Silver Bow Creek water quality by:

- Removing buried tailings in the Diggings East and Northside Tailings areas to allow for construction and operation of stormwater basins
- Installing other stormwater basins at Grove Gulch and Buffalo Gulch to control stormwater run-off
- Removing substantially all of the wastes in the Parrot Tailings, Blacktail Creek and Confluence areas
- Creating a protective and connected riparian corridor adjacent to Blacktail Creek and through the Butte Reduction Works area

Coupled with the extensive cleanup efforts already accomplished in Butte, the new, proposed actions, along with the end land use commitments described above, if a consent decree is finalized, demonstrate the CD Parties’ commitment to you and the entire Butte community to provide for a healthy and thriving environment for Butte and Walkerville. We look forward to continuing to work with all community groups and individuals to accomplish that goal.

Sincerely,

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